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ABSTRACT

Hearings are presented on the subject of defaults of student loans made pursuant to the Guaranteed Student Loan Program authorized by part B of Title IV of the Higher Education Act. Methods are suggested for cutting down or eliminating defaults including: (1) discharging federal employees who have defaulted on student loans, after a reasonable time for restitution has been provided; (2) repayment deferment of up to one year for those unemployed but seeking full-time employment; (3) permitting students with low earnings to pay back loans at a lower rate; and (4) prohibiting individuals who default on student loans from obtaining any other federal loan, such as from the Small Business Administration, the Federal Home Administration, and the Office of Minority Business Enterprise. Suggestions for preventing future default problems are also provided. (SPG)

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STUDENT LOAN DEFAULTS

OVERSIGHT HEARING

BEFORE THE

SUBCOMMITTEE ON POSTSECONDARY EDUCATION

OF THE

COMMITTEE ON EDUCATION AND LABOR HOUSE OF REPRESENTATIVES

NINETY-FIFTH CONGRESS

FIRST SESSION

HEARING HELD IN WASHINGTON, D.C.
OCTOBER 26, 1977

Printed for the use of the Committee on Education and Labor

CARL D. PERKINS, *Chairman*

HE 009 939

U S DEPARTMENT OF HEALTH, EDUCATION & WELFARE
NATIONAL INSTITUTE OF EDUCATION

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STUDENT LOAN DEFAULTS

WEDNESDAY, OCTOBER 26, 1977

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON POSTSECONDARY EDUCATION,
COMMITTEE ON EDUCATION AND LABOR,
Washington, D.C.

The subcommittee met, pursuant to notice, at 10 a.m. in room 2261, Rayburn House Office Building, Hon. William D. Ford (chairman of the subcommittee) presiding.

Members present: Representatives Ford, Simon, Mottl, and Cornell.

Staff present: Thomas R. Jolly, subcommittee counsel; William Gaul, associate general counsel, full committee; Patricia Rissler Morse, subcommittee clerk/legislative associate; Mary R. Paul, subcommittee secretary; and Christopher Cross, acting minority staff director.

Mr. FORD. I call the hearing to order.

The subcommittee today will hear testimony on defaults of student loans which have been made pursuant to the guaranteed student loan program which is authorized by part B of title IV of the Higher Education Act.

From time to time we on this committee read dramatic "horror stories" in the press about student loan defaults and particularly the expert type of weekend pieces we pick up in a newspaper and once in a while the back page of a magazine where, after interviewing a half-dozen people, someone becomes expert on what the dimensions of the problem are and what the reasons for the problem of nonpayment of student loans might be, and this goes on and on.

Recently we have been made aware of the fact that this administration, under the direction of Secretary Califano, Commissioner Boyer, and Deputy Commissioner Kornfeld, has initiated a number of procedures which would be designed to improve upon past performance by the Department of Health, Education, and Welfare and the Office of Education in the collection of student loans.

In addition to that, in 1976, we made some changes in the law that might by now have had some impact on this total problem since they have been in effect for a short time. And we also provided for additional requirements with respect to lending institutions and the responsibility they had with respect to notifying the borrowers of their obligations.

The 1976 amendments provide criminal penalties for schools or lenders which knowingly and willfully make false representations to students.

I won't go into detail on the several measures undertaken by the U.S. Office of Education since I am certain we are going to hear about them from Commissioner Boyer and perhaps from Deputy

Commissioner Kornfeld, who, we hope, will describe their current and anticipated efforts in the quite ambitious program which, I understand, they are presently putting into effect.

Our first witness is a very special witness. Mrs. Meyner was one of the very first people to react to and call our attention forcefully to the announcement that there were employees of HEW who had defaulted on student loans. As a matter of curiosity, I would like someday to find out who put that thing out in the fashion in which it was put out. In any event, it produced a predictable concern particularly with Members of Congress and others throughout society. Mrs. Meyner was joined by a number of others who fortunately channeled their anger away from irresponsible speeches and breast-beating into a direct demand and request for a forum where questions could be asked and answers given.

I would like to say that, for my own part, I feel we are having these hearings primarily because of the concern that she has shown and the responsibility that she has shown in gathering together the people who are most concerned about the phenomenon of employees of the Department responsible in the end for collecting the funds who themselves were in violation of the law with the appearance being that nothing had been done about that.

Now, we are able to focus on the problem rather than on the rhetoric due to her efforts to bring to a focus the concern of all of these Members.

I would like to read a quote from someone who is very experienced in administration of the student loans. It is as a kind of preface to our discussion today. Mr. J. Wilmer Mirandon, who currently serves both as president of the United Student Aid Fund and as president of the National Council of Higher Education Loan programs, in a very succinct statement which appeared in a book published earlier this year by the college entrance examination board, summarized exactly the point that I think will be made in our hearing today. He said, and I quote:

> After only six months on the job, I realized that the students were being maligned and the taxpayer frightened to death by exaggerated statistics and substantial but singular cases of abuse. Everyone was talking about defaults but no one was doing much about them.
>
> Most intelligent and reasonable people believe that the guaranteed student loan program is truly an outstanding means of "last resort" high leverage educational assistance, and with relatively few changes it can be made even better.

With that, I would like to call upon our first witness, Representative Helen Meyner of New Jersey. Do you have a statement, Helen?

Mrs. MEYNER. I do. I want to thank you for your very kind words.

Mr. FORD. Without objection, your statement will be inserted in full in the record and you may add to it or comment on it.

Mrs. MEYNER. Thank you, Mr. Chairman.

STATEMENT OF HON. HELEN S. MEYNER, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW JERSEY

[The prepared statement of Hon. Helen S. Meyner follows:]

STATEMENT OF HON. HELEN S. MEYNER
SUBCOMMITTEE ON POSTSECONDARY EDUCATION
HOUSE EDUCATION AND LABOR COMMITTEE
OCTOBER 27, 1977

THANK YOU MR. CHAIRMAN. I APPRECIATE THIS OPPORTUNITY TO APPEAR BEFORE THE SUBCOMMITTEE TODAY. I WOULD LIKE TO PREFACE MY REMARKS WITH A DISCLAIMER: I AM NOT AN EXPERT ON FEDERAL FINANCIAL AID FOR HIGHER EDUCATION. THE MEMBERS OF THIS SUBCOMMITTEE ARE FAR BETTER VERSED THAN I ON THE PROBLEMS ASSOCIATED WITH DEFAULT AND THE IMPLICATIONS THAT THE DEFAULT RATE HAS ON THE FUTURE OF THE GUARANTEED STUDENT LOAN PROGRAM.

AS THE MEMBERS OF THE SUBCOMMITTEE MAY KNOW, EARLIER THIS MONTH I INITIATED A LETTER TO SECRETARY CALIFANO FOLLOWING THE RELEASE OF THE RESULTS OF "OPERATION CROSS-CHECK." THAT INVESTIGATION MATCHED THE HEW PAYROLL AGAINST THE GUARANTEED STUDENT LOAN DEFAULT FILES AND REVEALED THAT 316 NAMES APPEARED ON BOTH LISTS. WITH ALL RESPECT FOR DUE PROCESS AND THE "INNOCENT UNTIL PROVEN GUILTY" MAXIM, I DO NOT BELIEVE THAT THE DEPARTMENT'S PROPOSED METHOD FOR HANDLING THIS SITUATION WAS ADEQUATE. PUBLISHED REPORTS QUOTED DEPUTY COMMISSIONER OF EDUCATION LEO KORNFELD, AS SAYING THAT THE EMPLOYEES WOULD RECEIVE A LETTER URGING REPAYMENT AND THAT THEIR NAMES MIGHT BE TURNED OVER TO THE U.S. ATTORNEY FOR CRIMINAL PROSECUTION. OVER FORTY OF OUR COLLEAGUES JOINED ME IN SENDING THAT LETTER TO SECRETARY CALIFANO. IN OUR LETTER WE SUGGESTED A MORE APPROPRIATE METHOD OF RECOUPMENT -- A METHOD WHICH WE BELIEVE WOULD NOT SERVE AS A CONDONATION OF THE DEFAULT. OUR SUGGESTION WAS THAT THE SECRETARY ISSUE AN ADMINISTRATIVE ORDER PROVIDING FOR A REASONABLE TIME FOR RESTITUTION AND THEN DISCHARGE ANY EMPLOYEE WHO FAILED TO COMPLY WITH THAT ORDER. MY INTENT WAS NOT TO SUMMARILY DISMISS THESE EMPLOYEES WITHOUT DUE PROCESS OR TO CONDEMN THEM PRIOR TO ACTUAL PROOF OF DEFAULT. RATHER, I BELIEVE THAT ONCE THESE NAMES ARE IDENTIFIED, AN IMMEDIATE INVESTIGATION SHOULD COMMENCE AND THAT FOLLOWING VERIFICATION, STRONG MEASURES TO GUARANTEE REPAYMENT SHOULD BE TAKEN. I DO NOT THINK THAT IT IS UNREASONABLE FOR THE GOVERNMENT TO DEMAND RESTITUTION -- EITHER FROM FEDERAL EMPLOYEES OR FROM DEFAULTERS EMPLOYED IN THE PRIVATE SECTOR. I APPLAUD THE EFFORTS OF THE OFFICE OF EDUCATION IN CONDUCTING THE ORIGINAL "CROSS-CHECK" BUT, AT THE SAME TIME, I BELIEVE THAT THESE EFFORTS ARE FRUITLESS UNLESS THEY ARE FOLLOWED BY ACTIONS THAT SIGNAL THE

COMMITMENT OF THE OFFICE TO RECOUP THESE FUNDS. THIS, I BELIEVE CAN BE ACCOMPLISHED WITHOUT VIOLATING THE LEGAL RIGHTS OF THESE EMPLOYEES OR CIVIL SERVICE REGULATIONS.

IT IS MY UNDERSTANDING THAT MUCH OF THE EFFORTS TO STEM THE RISING DEFAULT RATE HAVE BEEN DIRECTED TOWARD THE INITIAL LENDING PROCESS. WHILE THE DEFAULT RATE FOR 1977 WAS ORIGINALLY PROJECTED TO BE 17%, THE FISCAL YEAR 1978 BUDGET APPENDIX PROJECTED SIGNIFICANTLY LOWER PERCENTAGES: 13.5% FOR FEDERALLY INSURED LOANS, AND 9.1% FOR FEDERALLY REINSURED LOANS. THE CONGRESSIONAL RESEARCH SERVICE HAS ATTRIBUTED THIS REDUCTION NOT TO A "MAJOR TURNABOUT" IN THE DEFAULT SITUATION, BUT TO IMPROVEMENTS IN THE MONITORING OF THE LENDING PROCESS. WHILE STRENGTHENING THE INITIAL LENDING PROCESS AND ASSURING THAT THE STUDENT IS AWARE OF THE NATURE OF THE LOAN AND REPAYMENT, I BELIEVE THAT IT ADDRESSES ONLY ONE GROUP OF DEFAULTERS -- THOSE WHO DID NOT UNDERSTAND THE LOAN REQUIREMENTS AT THE TIME THEY BORROWED. UNFORTUNATELY, THERE IS ANOTHER CATEGORY OF DEFAULTERS -- A GROUP OF BORROWERS WHO COMPREHEND THE NATURE OF THE LOAN AND CONSCIOUSLY DECIDE NOT TO REPAY IT. THE FOLLOWING EXCERPT FROM AN ARTICLE IN THE CHICAGO SUN-TIMES OF FEBRUARY 2, 1976, PROVIDES, WHAT I BELIEVE TO BE A FAIR PORTRAYAL OF THE TYPE OF STUDENT WHO FITS THIS CLASSIFICATION.

"STUDENT LOAN PAYMENTS
A DISCREDITABLE COURSE"

HE DIDN'T INTEND TO BECOME A DEADBEAT, BUT KEN AMES, Ph.D., RESPECTABLE CITIZEN, HUSBAND, FATHER, OWES ABOUT $2,500 IN STUDENT LOAN MONEY, AND HE SAYS HE IS NOT GOING TO PAY IT.

AMES (NOT HIS REAL NAME) IS, IN MANY WAYS, A CREDITOR'S DREAM. HE PAYS HIS RENT PROMPTLY, MAKES THE INSTALLMENT LOAN PAYMENTS ON HIS TWO-YEAR-OLD CAR ON TIME, AND KEEPS HIS CREDIT CARD SPENDING WITHIN LIMITS HE AND HIS WIFE CAN HANDLE.

HIS ONE BAD DEBT IS FOR EDUCATIONAL LOANS HE TOOK OUT WHILE HE WAS A COLLEGE UNDERGRADUATE, AND HE LOOKS AT THAT DEBT DIFFERENTLY. HE SOUNDS BITTER AND TAPS THE ASHES OUT OF HIS PIPE A LITTLE HARDER THAN NECESSARY AS HE TELLS HIS STORY.

"I BORROWED $2,400 THROUGH THE NATIONAL DIRECT STUDENT LOAN PROGRAM. WITHOUT THAT, I DON'T KNOW HOW I COULD HAVE MADE IT THROUGH COLLEGE," HE SAYS. "AT THAT TIME, I THOUGHT IT WAS REALLY GREAT THAT YOU COULD GET ALL THAT MONEY AT 3 PER CENT INTEREST, WITH REPAYMENT DEFERRED UNTIL SEVERAL MONTHS AFTER GRADUATION.

"WHEN I FINALLY GOT MY DOCTORATE IN HISTORY IN 1971, I FIGURED I HAD IT MADE. FOR THE FIRST TIME IN MY LIFE, I WOULD HAVE A FULL-TIME JOB.

"WELL IT DIDN'T WORK OUT THAT WAY. NOBODY WANTED HISTORY MAJORS, FOR TEACHING OR ANYTHING ELSE, AND THE ONLY JOB I COULD GET WAS IN SALES. IT DIDN'T PAY ENOUGH FOR MY WIFE TO

> CONSIDER QUITTING HER JOB (AS A SOCIAL WORKER) TO START THE FAMILY WE WANTED.
>
> WELL, ONE DAY, I HAD JUST ABOUT HAD IT WITH THE PLACE I WAS WORKING, AND I CAME HOME AND FOUND THE BILL FOR THE FIRST QUARTERLY PAYMENT ON MY STUDENT LOAN. I WAS FURIOUS. NO. MORE THAN FURIOUS. WE DIDN'T EVEN HAVE ENOUGH MONEY LEFT AT THE END OF THE MONTH TO SAVE FOR A DOWN PAYMENT ON A HOUSE, AND HERE WAS MY UNIVERSITY TELLING ME I WAS GOING TO HAVE TO START PAYING $240 A YEAR -- FOR WHAT? TO PAY OFF A DEGREE THAT THEY GAVE ME SO I COULD SELL REFRIGERATORS?"
>
> AMES NOW WORKS FOR A CONSULTING FIRM AND MAKES ABOUT $10,000 A YEAR, BUT HE CONTINUES TO IGNORE REQUESTS FROM HIS UNIVERSITY TO PAY UP THE MORE THAN $1,000 IN ARREARS ON HIS STUDENT LOAN. "IT'S VICIOUS," HE SAYS. "HERE WE ARE TRYING TO START A COLLEGE FUND FOR OUR BABY, AND I'M STILL BEING DUNNED FOR MY OWN EDUCATION."

MR. AMES SEEMS TO FEEL JUSTIFIED IN DEFAULTING ON HIS LOANS. HE BELIEVES THAT HIS Ph.D. IS WORTHLESS BECAUSE IT DID NOT IMMEDIATELY TRANSFER INTO EMPLOYMENT IN HIS CHOSEN FIELD. IS THIS JUSTIFICATION FOR DEFAULTING ON HIS LOAN? I THINK NOT. HIS WORDS CONVEY THE MISGUIDED BELIEF THAT A UNIVERSITY FORCED HIM TO PURSUE A COURSE OF STUDY AND TO GO INTO DEBT TO OBTAIN HIS DEGREE. "TO PAY OFF A DEGREE THEY GAVE ME SO I COULD SELL REFRIGERATORS." WHILE I SYMPATHIZE WITH MR. AMES AND THE MANY STUDENTS WHO ARE UNABLE TO FIND EMPLOYMENT WHICH THEY BELIEVE TO BE COMMENSURATE WITH THEIR LEVEL OF EDUCATION, I DO NOT BELIEVE THAT THIS GIVES THEM A LICENSE TO STEAL.

MR. CHAIRMAN, I AM AN AVID SUPPORTER OF FEDERAL FINANCIAL AID FOR HIGHER EDUCATION STUDENTS. I WISH TO PRESERVE THE FINANCIAL AID SYSTEM SO THAT THE STUDENTS OF TOMORROW MAY ENJOY THE SAME OPPORTUNITIES OFFERED TO THEIR OLDER BROTHERS AND SISTERS. I AM NOT WILLING TO ALLOW THE CREDIBILITY OF THE ENTIRE PROGRAM TO BE DESTROYED AT THE HANDS OF A SCOFFLAW MINORITY. I ENDORSE PROGRAMS LIKE "OPERATION CROSS-CHECK" AND I BELIEVE THAT IT SHOULD BE EXPANDED TO INVESTIGATE ALL FEDERAL PAYROLLS. WHILE THE STUDENT LOAN DEFAULT PROBLEM ALONE IS DISTURBING, THE FACT THAT DEFAULTERS ARE DRAWING FEDERAL PAYCHECKS IS ADDING AN UNCONSCIONABLE INSULT TO INJURY. IN ADDITION, THROUGH THE EFFORTS OF THIS SUBCOMMITTEE AND THE OFFICE OF EDUCATION, WE CAN STRENGTHEN THE ENFORCEMENT PROCEDURES THROUGHOUT THE COUNTRY. PUBLIC CONFIDENCE IN STUDENT LOAN PROGRAMS MUST BE RESTORED. HOWEVER, THE RESTORATION OF THIS CONFIDENCE CANNOT BE ACCOMPLISHED IF WE EXPEND THE TIME AND TECHNOLOGY TO IDENTIFY THE DEFAULTERS AND THEN DO NOT TAKE STRONG STEPS TO GUARANTEE RECOUPMENT.

Mrs. MEYNER. Mr. Chairman, my colleagues Mr. Mottl and Mr. Cornell, I appreciate this opportunity to appear before the subcommittee today. I would like to preface my remarks by pointing out that I am not an expert on Federal financial aid for higher education. The members of this subcommittee are far better versed than I on the problems associated with default and the implications that the default rate has on the future of the guaranteed student loan program. That is what really concerns me—the future of the program.

As the members of the subcommittee may know, earlier this month I initiated a letter to Secretary Califano following the release of the results of "Operation Cross-check." That investigation matched the HEW payroll against the guaranteed student loan default files and revealed that 316 names appeared on both lists.

With all respect for due process and the "innocent until proven guilty" maxim, I do not believe that the Department's proposed method for handling this situation was adequate. Published reports quoted Deputy Commissioner of Education Leo Kornfeld as saying that the employees would receive a letter urging repayment and that their names might be turned over to the U.S. attorney for criminal prosecution.

Over 40 of our colleagues joined me in sending a letter to Secretary Califano. In our letter we suggested a more appropriate method of recoupment, a method which we believe would not serve as a condonation of the default. Our suggestion was that the Secretary issue an administrative order providing for a reasonable time for restitution and then discharge any employee who failed to comply with that order.

My intent was not to summarily dismiss these employees without due process or to condemn them prior to actual proof of default. Rather, I believe that once these names are identified, an immediate investigation should commence and that, following verification, strong measures to guarantee repayment should be taken. I do not think that it is unreasonable for the Government to demand restitution, either from Federal employees or from defaulters employed in the private sector.

I applaud the efforts of the Office of Education in conducting the original "Cross-check" but, at the same time, I believe that these efforts are fruitless unless they are followed by actions that signal the commitment of the Office to recoup these funds. This, I believe, can be accomplished without violating the legal rights of these employees or civil service regulations.

It is my understanding that much of the efforts to stem the rising default rate have been directed toward the initial lending process. While the default rate for 1977 was originally projected to be 17 percent, the fiscal year 1978 budget appendix projected significantly lower percentages—I think this is good news—13.5 percent for federally insured loans and 9.1 percent for reinsured loans.

The Congressional Research Service has attributed this reduction not to a major turnabout in the default situation but to improvements in the monitoring of the lending process.

While strengthening the initial lending process and assuring that the student is aware of the nature of the loan and repayment is an

important effort, I believe that it addresses only one group of defaulters, those who did not understand the loan requirements at the time they borrowed.

Unfortunately there is another category of defaulters, a group of borrowers who comprehend the nature of the loan and consciously decide not to repay it. The following excerpt from an article in the Chicago Sun-Times of February 2, 1977, provides what I believe to be a fair portrayal of the type of student who fits this classification. I will quote the article because I think it is important, and I would like to have it included in the record, Mr. Chairman.

He didn't intend to become a deadbeat, but Ken Ames, Ph. D., respectable citizen, husband, father, owes about $2,500 in student loan money, and he says he is not going to pay it.

Ames—not his real name—is, in many ways, a creditor's dream. He pays his rent promptly, makes the installment loan payments on his two-year-old car on time, and keeps his credit card spending within limits he and his wife can handle.

His one bad debt is for educational loans he took out while he was a college undergraduate, and he looks at that debt differently. He sounds bitter and taps the ashes out of his pipe a little harder than necessary as he tells his story.

"I borrowed $2,400 through the national direct student loan program. Without that, I don't know how I could have made it through college," he says. At that time, I thought it was really great that you could get all that money at 3 percent interest, with repayment deferred until several months after graduation.

"When I finally got my doctorate in history in 1971, I figured I had it made. For the first time in my life, I would have a full-time job.

"Well, it didn't work out that way. Nobody wanted history majors, for teaching or anything else, and the only job I could get was in sales. It didn't pay enough for my wife to consider quitting her job—as a social worker—to start the family we wanted.

"Well, one day, I had just about had it with the place I was working, and I came home and found the bill for the first quarterly payment on my student loan. I was furious. No. More than furious. We didn't even have enough money left at the end of the month to save for a down payment on a house, and here was my university telling me I was going to have to start paying $240 a year—for what? To pay off a degree that they gave me so I could sell refrigerators?"

Ames now works for a consulting firm and makes about $18,000 a year, but he continues to ignore requests from his university to pay up the more than $1,000 in arrears on his student loan. "It's vicious," he says. "Here we are trying to start a college fund for our baby, and I'm still being dunned for my own education."

Mr. Ames seems to feel justified in defaulting on his loans. He believes that his Ph. D. is worthless because it did not immediately transfer into employment in his chosen field. Is this justification for defaulting on his loan? I think not. It was only $240 a year that he would have to pay back. His words convey the misguided belief that a university forced him to pursue a course of study and to go into debt to obtain his degree. "To pay off a degree they gave me so I could sell refrigerators."

While I sympathize with Mr. Ames and the many students who are unable to find employment which they believe to be commensurate with their level of education, I do not believe that this gives them a license to steal.

Mr. Chairman, I am an avid supporter of Federal financial aid for higher education students. I wish to preserve the financial aid system so that the students of tomorrow may enjoy the same opportunities offered to their older brothers and sisters. I am not willing to allow the credibility of the entire program to be destroyed at the hands of a scofflaw minority. I endorse programs like "Operation Cross-check" and I believe that it should be expanded to investigate all Federal payrolls.

While the student loan default problem alone is disturbing, the fact that defaulters are drawing Federal pay checks is adding an unconscionable insult to injury. In addition, through the efforts of this subcommittee and the Office of Education, we can strengthen the enforcement procedures throughout the country.

Public confidence in student loan programs must be restored. However, the restoration of this confidence cannot be accomplished if we expend the time and technology to identify the defaulters and then do not take strong steps to guarantee recoupment. Thank you very much, Mr. Chairman.

Mr. FORD. Thank you. I also would like to thank you for the very responsible way in which you have approached this problem from your perspective, and I have already expressed in our conversations the places where we have a little different approach to it based on our own experiences. I think if you had not focused this reaction the way in which you did we could have been in for a long series of unfortunate partial discussions that would have led us nowhere and improved nothing. I think as a result of your effort a great many members are now going to be watching very closely what progress is made, and they will be able to judge in a better manner than otherwise would have been possible whether in fact we are making progress.

I would like to observe, however, that it is precisely the kind of article that you quote from here that spoils my breakfast from time to time and occasionally a plane ride when I read it there, because this is not a peculiar sort of reaction for a person of any age to have when they have purchased something. I think if you talk to anybody who finances automobiles, for example, you will find that the common phenomenon is, if the car does not run as well as the used car salesman implied it would run, the ordinary citizen has great difficulty understanding why he should have to pay the bank or the loan company the money that he borrowed to pay for the car. He can't disassociate the two responsibilities. This young man may have a complaint against somebody in the system for permitting him to have the kind of freedom that we fight very hard for him to have.

We would resist very strenuously, I am sure, any attempt to tell him that he should cut off his education at a particular point because we did not believe he was pursuing the right kind of education or that he should change his educational objectives. In response to this kind of phenomenon we have, in fact, had suggestions that we authorize people at the leading level to call someone in and say, "You are borrowing too much money for your potential." You can well imagine what the reaction would be if we told one person, "We think you probably will make it, you keep on borrowing the money" and told another person, "You don't look like a winner to me, so we are not going to bet on you and you cannot have the loan."

That has been generally, in the past, the kind of approach that has been thrown at this committee as an answer to the people like Ken Ames, Ph. D., as they called him here. I find Ken Ames to be a very interesting sort who puts savings to purchase a house ahead of paying any kind of obligation, whether it is to a doctor or student loan or whatever. The ethic in which I was raised said that, when you don't meet your obligations, you are kidding yourself when you say you are saving for some worthy objective.

First, he was saving for a home, and then I believe later in his statement it was a question of paying the $240 a year or "saving for a college fund for our baby." As one who was never able to do either when I came out of college, I would like to meet Ken Ames and do what his father should have done a long time ago, providing he isn't too big for me to take that chance. If one of my sons were to give me this kind of approach, he would have had a shoe print in an appropriate part of his posterior.

Mrs. MEYNER. I would agree with the comment, Mr. Chairman.

Mr. FORD. In my many years of association with student loans, this is not, in any way, typical of the reactions of people.

Mrs. MEYNER. Can I interrupt there, Mr. Chairman. I don't think it is typical but it has happened. I would agree with you that Mr. Ames should have had a good spanking a long time ago. After all it was only $240 a year that he had to pay back. But I think an article like this, as we know, virtually is the stuff headlines are made of and it does not get into the papers when students do repay their loans. This is the sort of article that does, of course, get into the newspapers.

Mr. FORD. But if he owed $240 a year to a mean, nasty loan company, he would have been paying it. So it really raises a question with us as to why he was able to adopt this attitude, and apparently from the article no one did anything to correct his misconceptions. We hope we can correct those misconceptions.

Mrs. MEYNER. Perhaps just as some people think the world owes them a living, other people think the world owes them a higher education. I think this was true in the case of Mr. Ames.

Mr. FORD. I had another experience that touches on this phenomenon. Early in my career I defended a hero of the Korean war—and I went to school after that conflict with the aid of Government money—in a murder case involving a 100 percent disabled veteran with a mental disability after having been literally blown to pieces in Korea. He escaped from a mental hospital that the Army operated at that time in Michigan, went to Cleveland, Ohio, and got a little job and borrowed some money and bought a used car which did not run. He took the used car back to the lot and told them they could keep the car and he was not going to pay for it.

And then he went to the loan company that had lent him the money to argue with them about whether or not he was going to pay it back. Unfortunately there was another hero of the Korean war who was the manager of the loan company office. They were both Purple Heart veterans, and a scuffle ensued. The young man I represented had not one but two guns with him when he went in, and during the scuffle, he killed the loan manager and was charged with murder.

After a number of years of incarceration and a long time of trying to determine whether he would spend the rest of his life in Lima which is the mental institution down there or go to trial, we were finally able to get him out of prison. Never at any time did he ever believe, until he died in another holdup later, unfortunately, that he should have paid that money back or that he was not justified in resorting to violence when they insisted on the payment. And it left a very deep imprint in my mind about how readily people can adopt the attitude that the person who is collecting money from them when they believe it is unjustified is really a pretty wicked sort of person.

Obviously the Ken Ames types feel that they went to our educational institutions expecting to get some sort of product that they could sell. That may be a failure of the institutions or it may be a failure of the system, because that is not a guarantee we give anybody along with their education. But I do agree with you that this type of reaction is expressed often enough and does have enough titillating value for writers so that it continually shows up. We really ought to have in place some sort of answer to people who read something like this and ask how is this possible and what is being done about it. My own feeling, having been on this committee since the inception of these programs, is that over the years we have not done much of anything about it and that there is plenty of blame to be shared by not only the people who have written this legislation but the people who have administered it over the years.

I believe that Ken Ames is a symptom but the problem is clearly much deeper than that. This afternoon we are going to be on the same issue with the Bankruptcy Act, and I hope I will be able to convince the gentlelady from New Jersey to support the position of this committee on that one.

I might say at this point that all of the people who signed your letter received a written invitation from the committee to either testify or submit a statement for the record along with anyone we could find by a quick check of the record who has made a speech about this matter on the floor, particularly the ranking minority member of the Appropriations Committee who gratuitously gave us a long speech about the whole student loan program last week. We trust that he will take this opportunity to get it on the record for the public in an orderly fashion.

We will hold this record open, as a matter of fact, and hope that anybody that wants to get something off his chest about student loans will do it so that we can get this all together and really get some idea of how serious the problem is.

Mrs. MEYNER. Mr. Chairman, I would like to make it clear that my letter to Secretary Califano was in no way meant as a criticism of this subcommittee and the work you are doing. It was not related at all. It was just asking him to get a little tougher on his employees who had defaulted on their student loans. No criticism was meant at all. This subcommittee, I think, does a very splendid job.

Mr. FORD. Unlike some of his most immediate predecessors, Mr. Califano indicates a spontaneous willingness to get tough when he finds something wrong over there and we have been impressed with the fact that when a problem comes to his attention, whether it is involved or not something happens. We expect that sort of thing is happening now with regard to the student loans.

Father Cornell.

Mr. CORNELL. To the remarks of the chairman about your efforts on this matter I would simply like to add "me too" or maybe more appropriately "amen." I do regret, however, the example you used, not for the reason the chairman indicated, but I find it very, very difficult to be objective in dealing with a Ph. D. in history. Thank you, Mr. Chairman.

Mr. SIMON. Unfortunately I was not here for your testimony but I just read your statement which is an excellent statement and I simply

commend you for your leadership and for your understanding. You have acted in a responsible way.

Mrs. MEYNER. Thank you very much, Mr. Simon.

Mr. FORD. Thank you very much for helping us.

Mrs. MEYNER. Thank you, Mr. Chairman

Mr. FORD. The Honorable Ernest Boyer, Commissioner, U.S. Office of Education, will be accompanied this morning by Mr. Leo Kornfeld, Deputy Commissioner of Student Financial Assistance and Mr. William Blakey, Deputy Assistant Secretary for Legislation—Education. Without objection the statement submitted for the record will be printed in full at this point and you may proceed to amplify it, explain it, summarize it, or add to it as you wish this morning, Mr. Commissioner. May I say before you start that, as chairman of this subcommittee, I have discussed this problem in recent weeks with both the Commissioner and with Assistant Commissioner Kornfeld and have been personally reassured that they have been devoting a great deal of time to it. I am convinced it does not come suddenly to them as something they discovered yesterday but something that they have been working on ever since the problem came to their attention a little earlier this summer. I have been reassured by them on more than one occasion as they have taken several steps that they were proceeding to deal with it. So I expect we are going to hear from you some sort of outline of what is going on

[The prepared statement of Hon. Ernest L. Boyer follows:]

Statement by
Honorable Ernest L. Boyer
U.S. Commissioner of Education
U.S. Office of Education
Department of Health, Education, and Welfare
Before the
Subcommittee on Postsecondary Education
Committee on Education and Labor
U.S. House of Representatives
Washington, D.C.
Thursday, October 27, 1977
10:00 A.M. EST

Commissioner Boyer is accompanied by:

Mr. Leo L. Kornfeld, Deputy Commissioner, Bureau of Student Financial Assistance, Office of Education, HEW

Mr. William A. Blakey, Deputy Assistant Secretary for Legislation (Education), HEW

Mr. Chairman and Members of the Subcommittee:

We would like to take this opportunity to express the Administration's sincere appreciation to the House Committee on Education and Labor, and especially to this Subcommittee, for your efforts in accomplishing the enactment into law of the Education Amendments of 1976 and the various technical amendments enacted last June.

As you know, many provisions of the Amendments affecting the Guaranteed Student Loan Program were designed to accomplish the very goal which is the topic of today's hearing: the reduction of the volume of defaults on guaranteed student loans.

Thanks to your efforts on the Education Amendments, we are now able to take many steps to improve our management of the program both in the "front-end" control of the loan process and of lender and school participation, and in the detection and prevention of program fraud and abuse. Of special significance is that we are now able to extend improved managerial techniques to all Federal student financial aid programs.

As the Guaranteed Student Loan Program has matured over the past twelve years, it has experienced a rapid growth in the number and amount of loans made. Since the program's inception in late 1965, about six million students have borrowed approximately $11.1 billion in loans as of September 30, 1977. In FY 77, about 925,000 new loans were approved for approximately $1.34 billion, of which about 69 percent were made under guarantee agency programs.

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The important point to remember in all of this--and it is highlighted in the above statistic--is that hundreds of thousands of students have been served by this important program--students who otherwise may have been denied a postsecondary education.

It is significant to note that volume under these guarantee agency programs reflected a five percent increase over FY 76, whereas the volume under the Federal Insured Student Loan Program (FISLP) decreased by about 30 percent.

Accompanying this growth in new loan volume has been a steady rise in the default rate and a concomitant rise in the number of uncollected defaulted accounts, particularly in the Federal Insured Student Loan Program. In fact the FISLP is in serious difficulty because no efficient centralized collections system had been developed.

However, the following steps are now being taken:

1. A billing system is being established and should be operating in the near future.
2. We are in the process of completing a computer system which we hope will be operational by the end of the calendar year. System completion will lead to a significant increase in effectiveness.
3. We have also brought in a software systems contractor to work with our systems personnel to determine what additional changes need to be implemented.
4. We will soon be putting out a Request for Proposal regarding the program's future computer needs. This RFP will emphasize the end product we desire. We are asking vendors to design the computer

configuration most suitable to accomplish desired end products. We will not specify that the system be based upon on-line interactive computers, but will instead open it up to all kinds of computers.

Guarantee Agencies have generally had a better default record than the FISLP. This is true for a number of reasons. They have smaller spans of control. Since few permit correspondence schools to participate, and others restrict participation by proprietary and vocational schools, they serve lower-risk populations. Some insure only 90 percent of the loan amount, and this induces lenders to exercise greater caution in making loans.

The Education Amendments of 1976 contain provisions for encouraging Guarantee Agency Programs, and the Office of Education is taking steps to implement those provisions.

A detailed plan discussing these steps was submitted to the Congress on June 30, 1977. They include, but are not limited to:

* sending letters to governors of non-guarantee agency States urging them to establish agencies;
* sending BSFA staff experts to the States to explain the benefits of such programs and to assist States in planning their implementation;
* negotiating and administering a contract to conduct an in-depth study and analysis of existing guarantee agencies to develop a model for setting up and organizing new agencies.

There are now 28 guarantee agencies in operation, including new programs in Minnesota, Kansas and Utah. New agencies will be established shortly in Florida, Indiana, and Kentucky. Several other guarantee agency programs are in various stages of development.

Since the Office of Education is not directly responsible for collections for Guarantee Agency programs, today's testimony focuses upon the FISLP.

The reasons for the increasing FISLP default problems are several. They include:

* the expansion of program participation by a wide range of schools and lenders;
* the expansion of the student population to include a broader portion of the socio-economic spectrum, particularly the low income and independent students;
* recent national economic difficulties, including the high unemployment rate and increases in education costs brought on by inflation;
* a growing opinion on the part of students that they do not have to pay back their loans, based upon the ease with which many have been able to avoid payment;
* until recently, inadequate personnel to deal with program administration and collections activities in the Office of Education;
* the delay in the development of an effective claims and collections system;

* the failure to establish and implement a billing system for defaulted accounts; and
* inadequate or excessively rigid regulations and statutory provisions dealing with the activities of participating schools and lenders and loan repayment.

Because of legislative changes, new positions, and administrative initiatives, we are now able to move aggressively to correct these deficiencies. Without that important legislation, few of our planned remedies would have been possible.

THE DEFAULT SITUATION

As of June 30, 1977, 344,000 student borrowers had defaulted on their Federal insured student loans. This translates into about $500 million in principal and interest. This is approximately a 12.2 percent default rate.

We must emphasize again that these numbers do not reflect defaults paid under State and private guarantee agency programs.

A perusal of the data since FY 75, including projections through FY 78, will provide an idea of the trends in this area:

DEFAULTS (FISLP only)

	FY-75	FY-76	TQ (Transition Quarter)	FY-77 (est.)	Total 1967 through 1977
# of claims	74,926	116,374	29,093	110,096	409,602
$ (000)	74,274	105,539	26,385	96,554	416,751
Default %	9.7	11.9	11.9	12.2	12.2

We estimate that in FY 78 there will be 145,000 claims amounting to $127,000,000.

THE REMEDIES BEING TAKEN

The Office of Education is currently attacking this problem on three interrelated fronts: (1) reduction of the number of default claims filed; (2) reduction of the large backlog of uncollected defaulted accounts; and, (3) reduction of defaults caused by misfeasance or malfeasance on the part of lenders, schools and students.

REDUCING DEFAULT CLAIMS

Efforts to reduce the number of defaults caused by failure to bring students into repayment are already underway based upon the Education Amendments of 1976, proposed regulatory stipulations, and administrative improvements.

Legislation

Several provisions of the Education Amendments of 1976 are central to reducing the seriousness of this problem. Among those provisions are:

* Exceptions to the general rules on repayment,
  - repayment deferment of up to one year for those unemployed but seeking full-time employment;
  - permitting students with low earnings to pay back loans at a rate less than the $360 per year minimum;
* Loan proceeds to be disbursed by check, requiring the borrower's endorsement, which must be mailed by the lender to the school;
* Schools required to provide accurate student consumer information to current and prospective students;
* Schools must notify lender within 60 days of student withdrawal or failure to reenroll; and,
* Criminal penalties for schools and lenders which misrepresent the program.

Regulations

Regulatory changes have been developed which, when implemented, will reduce defaults. It is anticipated that the proposed regulation will be published in December with final regulations effective next spring. These include:

* Requirements for lender interview with students prior to making loans;
* Authorization of flexible repayment schedule options;
* Encouragement of collection forbearance if the lender is satisfied that the borrower will be able to repay under a more liberal repayment schedule.

Administrative Changes

An important administrative change which will help bring students into repayment is being made. Specifically, we will provide assistance to lenders before a loan goes into default. For a number of years, the Office of Education provided perfunctory "preclaims assistance" to lenders who requested help in locating delinquent borrowers. There was no regularized system for doing this, and participation was entirely voluntary.

Recently, a new, improved pre-claims system has been introduced. Under this system:

* The lender asks OE for preclaims assistance when loans are 60 days delinquent;
* A series of letters is prepared which--
  - reminds borrower of debt
  - warns borrower he will be in default and owe debt to U.S. Government.

This heretofore voluntary system will be made mandatory for all lenders in the FISLP as soon as regulations are published.

IMPROVING COLLECTIONS OF DEFAULTED LOANS

If preclaims efforts are not effective and a default claim has been filed by and paid to a lender, more vigorous collection procedures will be introduced in the region where the default claim was paid.

The tremendous growth in the number of default claims in recent years has led to the development of a backlog of about 344,000 uncollected accounts. Although it will be some time before the backlog is eliminated, we will work consistently to reduce it as quickly as possible.

New administrative initiatives are being taken to cope with this problem:

First, an efficient billing system will be put in place. The Office of Education has, to date, lacked a systematic billing process through which regular contact with defaulters was established. Often students were never contacted by OE once they went into default. This lack in no small measure accounts for the general failure to bring defaulted accounts into repayment status.

In addition to the new billing system, efforts will be made to increase the productivity of internal Federal collection efforts. The current rate of case processing for Federal collections is below the norm for equivalent activities in the private sector.

On November 14, 1977, key regional personnel will be brought to Washington to be trained by the Bureau of Student Financial Assistance in the use of a new computerized billing system which will be introduced in the near future. The major features of this system are:

* Monthly bills sent to each defaulter;

* Development of management information subsystem to track progress of collection effort and tighten management control of default situation.

Commencing in early 1978, programs will be introduced in the regional offices to:

* train regional collection staffs to deal efficiently with the collections contractor
* increase the efficiency of collectors employed by the Office of Education.

Since the low productivity of OE collectors has, in part, been attributable to the absence of modern collection instruments, such as a computerized billing system, the implementation of the new system will have a major impact on increasing inhouse efficency.

Finally, we plan to develop and implement a publicity program to inform defaulted borrowers and the general public that a responsible collection program is in place.

REDUCING PROGRAM ABUSE BY INSTITUTIONS

Additional efforts to reduce the future default rate will be predicated upon enhanced control over program participants. Provisions of the Education Amendments of 1976 and of new GSLP regulations currently being prepared, combined with improved administrative structure and procedures, will make it possible to reduce defaults.

Legislation

Provisions of the Education Amendments which will help accomplish this goal include:

* Suspending school lenders which have "annual defaults rates" of 15 percent or more for two consecutive years;
* Requiring that school lenders and school "originators" of loans be "lenders of last resort";
* Limiting the lending level of school lenders to 50% of enrolled undergraduate students;
* Prohibiting the use of commissioned salesman to promote the GSLP;
* Eliminating correspondence schools as lenders;
* Establishing fiscal and other standards for institutional eligibility;
* Developing procedures for the limitation, suspension, and termination of participating institutions;

Regulations

New regulatory requirements effective next spring include:

* setting specifications of "due diligence" in the making, servicing and collecting of loans;
* insisting that lenders file default claims in a timely manner (within 90 days of the time a loan goes into default);
* establishing administrative and financial criteria to be applied in screening and limiting FISLP lender and institutional eligibility.

Administrative Changes

Structural and procedural improvements aimed at reducing defaults caused by schools and lenders include:

* The establishment of a Division of Certification and Program Review to certify institutional eligibility, implement limitation, suspension, and termination actions, and coordinate audit, program review and student validation activities; such procedures were implemented in February 1977 in the GSLP for new applicants and schools undergoing changes of ownership. They will be extended to all institutions in all Federal student financial aid programs in the near future;
* The establishment of a Compliance Division to coordinate compliance activities nationwide in close cooperation with the Office of Inspector General;
* The intensification of compliance, audit and program review activities in the regional offices, particularly the use of on-site visits at problem institutions;
* The establishment of a new Division of Quality Assurance to assess Bureau programs, recommend changes in policies and operating procedures, and review the effectiveness of regional office efforts in program control.

CONCLUSION

Mr. Chairman, we are determined to serve students and we are equally determined to be good stewards of this essential program. We are taking vigorous steps to deal with the default problems related to the Guaranteed

Student Loan Program. The road ahead is difficult and we cannot achieve miracles overnight. However, we are convinced that with competent and conscientious administration, these problems can and will be solved.

Again, I would like to thank this subcommittee for the assistance it has given us, through legislation and its strong moral support, and for the opportunity to meet with you today.

I will be happy to answer any questions you may have.

STATEMENT OF HON. ERNEST BOYER, COMMISSIONER, U.S. OFFICE OF EDUCATION, ACCOMPANIED BY LEO KORNFELD, DEPUTY COMMISSIONER OF STUDENT FINANCIAL ASSISTANCE, AND WILLIAM BLAKEY, DEPUTY ASSISTANT SECRETARY FOR LEGISLATION (EDUCATION)

Mr. BOYER. Thank you. Mr. Chairman and members of the committee. I am pleased to have this opportunity to talk about the guaranteed student loan program. Two comments by way of background. I think it would be wholly inappropriate for us to proceed without declaring that the loan program established by Congress in my view has been a remarkable success in achieving the objectives intended. Since its inception in 1965, approximately 6 million students have taken advantage of this procedure by which they can secure funds to complete their education, and approximately $11 billion have been borrowed. In 1977, the year just recently completed, 925,000 new loans were extended, approximating $1.3 billion.

The second point to make in that context is that we have, in administrative terms, been seeking to implement what we consider to be the absolutely valid intention of Congress to shift the administration of this from a federally controlled to a State-based loan arrangement. I think it is dramatic evidence that in 1975 about 50 percent of the loans awarded under the guaranteed loan program were State based and the balance, the other 50 percent, approximately, Federal based.

Last year, 1977, 70 percent of the loans awarded were through the State agency arrangements and 30 percent were Federal, an increase of 5 percent at the State level and a decrease of 30 percent in the federally insured program over 1976 volume.

It is our absolute commitment, Mr. Chairman, to push vigorously toward the implementation of that policy. Currently there are 28 State agencies, 3 more that are coming on this year, Minnesota, Kansas, and Utah, and 3 additional ones, Florida, Indiana, and Kentucky that will, in our judgment, be shortly participating.

We are projecting that by 1980, 40 to 45 States will be participating in a State-based program. It is our clear expectation that, in time, not only will the funding be available, but in my judgment a more reliable and appropriate mechanism for the delivery of those loans and also the followup will be in place. We intend to push vigorously toward that end, as the 1976 amendments indeed intended and provided much of the machinery to achieve. In a letter to this committee in June 1977, we outlined the steps that we have been taking in order to encourage full development of State-based guaranteed loan arrangements.

So much by way of context. That is numbers of students participating and the mechanism by which it is delivered.

I would now like to talk about the centerpiece of this hearing this morning and that is the issue of defaults. As of June 30, 1977, cumulatively, there were 344,000 loans that had defaulted which approximated $500 million in principal and interest. That is a default rate of slightly in excess of 12 percent.

In order to keep perspective I should look at the other side of that and remind you that also means that about 87 percent of the bor-

rowers have been paying. We take no comfort in the percentage who have not but, I think, it is remiss for us to be wholly preoccupied with the defau without also remembering that a large percentage of students, the vast majority, have felt responsible for their obligations. This should also be noted for the record.

Mr. FORD. When we use the word "default," would the fact that someone had missed a payment put that loan in the category of default along with someone who never made a payment?

Mr. BOYER. No; the defaulting becomes a formal category, Mr. Chairman, at the point at which the bank obligation is suspended. That is, they have fulfilled all of their efforts toward due diligence in the collection and it would revert to the Federal Government as an obligation. The statistics of that you might want to add on further.

Mr. KORNFELD. Once the bank tries to collect, and cannot collect, it then puts the loans—which of course are loans guaranteed by the Government—to the Federal Government, which pays the claim.

Mr. FORD. When we talk about loans in default, are we talking about loans that have now proceeded to the point where the original lending agency has relied on the assurance from the Federal Government and passed the paper to us?

Mr. BOYER. That is right.

Mr. FORD. But we are not talking about any process that determined that the loan is in any way uncollectible or that the person in default has done some particular thing indicating an intention not to pay the Federal Government?

Mr. BOYER. No, sir, in fact as I will explain later, we consider none of these, at least in theory, unrecoverable, and part of our new procedures are intended to focus on the backlog of delinquencies and to improve the procedures by which those who have a delinquent account will be brought back to repayment. These are not to be considered to be lost causes.

They are really cumulative and our job is to get into that and begin to introduce responsible administrative procedures relating to collection and follow-up which, as I will explain in a moment, has been part of the problem quite frankly.

Mr. SIMON. The 12-percent figure you use, now, in going through your statement you have 6 million students who have borrowed and 344,000 have defaulted. Now, that adds up to a little better than 5 percent.

Mr. KORNFELD. You have to be careful because, when you use a percentage of default, it only concerns those loans that are subject to repayment. As you know, when the student makes the loan, it is not in repayment until a certain number of years have passed.

Mr. BOYER. My remarks will focus on that section of the program that is related to federally insured loans, although I will passingly note the State-based program. I did think it important, Mr. Chairman, to note what we have inferred to be some of the reasons for the default picture and note that it has been increasing in recent years. In our view, there are four or five items that I think are important to note.

It would be inappropriate not to note that, by very definition, those who are receiving this loan are in most commercial settings ineligible. That is, you are starting by definition with a high risk or

an unknown population. And how do you choose between them? We cannot sit down with a potential borrower and make credit judgments in the same way that a commercial lending agency might. We have to take note of the social purpose served by these loans. It is not essentially a fiscal strategy. It is a social service toward education with certain risks that are inherent there that would not be under more conservative practices if that were the primary aim.

The second thing to note is that we have in recent years expanded dramatically the number and the types of institutions that are able to participate where students are enrolling. Some of these are much less conservative and, if one might put it, somewhat less reliable than others. We are going to be working on that as I will refer to in just a moment.

Further, there has, in recent years, been an increase in the types of students and the numbers of students who have taken this as their strategy to finance higher education. So the nature of the population has shifted. It is never unrelated for us to the economic picture beyond school. That is, as the job opportunity shifts up and down—witness the rather lamentable Mr. Ames—it is not at all unrelated to the economic circumstances after graduation. I have to say also, Mr. Chairman, that part of the problem of default in my view is related directly to the administration of the program in our office. I will tell you, quite frankly, that to discover we have had no systematic billing system, that we have had no computer access available to us in monitoring this, that we have had no consistent follow-up on those people that have defaulted, clearly indictes that part of the explanation for the default rate relates to the prudence or lack thereof, and efficiency of the management. I simply add, as a simple personal speculation, if there is not consistent reminder that a bill is owed it is almost human nature—even among those that have been spanked appropriately by their fathers—that the bill may not be paid. The reminder is, in itself, a useful device and we have not had a consistent follow-up which makes it possible for the borrower to know that someone is tracking this. So that part of our job, then, is to see to it that management is increased.

Mr. FORD. Let me interrupt there. Is it fair to assume—the impression that I have gathered is that, once the lender has transferred the paper in effect to the Federal Government, the lender loses all interest and that is true of all the loans? It is also true in other kinds of Federal guaranteed loan programs, in housing for example. Once the paper comes to the Federal Government, they wash their hands of it.

Mr. BOYER. Yes.

Mr. FORD. Has there been, heretofore, at the Federal level any agency within the Office of Education or elsewhere in the Government that has made any systematic effort to simply send them a letter once a year and say, "You still owe us the money" or do anything comparable to what the other Federal agencies do in attempting to recover the money?

Mr. KORNFELD. There has not been in the past a systematic reminder to the student even while he is at school that he owes us money or even when the loan in fact was turned over to the Federal Government. There just has been minimal communication between

the lender and the student until the student got out of school, when the lender tried to collect and when it turned into a default case. Under new regulations, which hopefully will be coming out soon, we are requiring consistent notification that the student is in school. Also, there will be communication between the lender and the student while he is at school. Subsequently, when he becomes a default, we will start our billing system which will be implemented as Commissioner Boyer pointed out.

Mr. BOYER. In my judgment, neither the original financing agency, bank, or whatever, and certainly the Federal Government, which takes on the obligation—neither of these parties has had a responsible and defensible process by which the borrower is followed and reminded of his or her obligation. I cannot believe that the system is able to work if that simple administrative device is not put in place.

In that regard, Mr. Chairman, I would note that the State agency programs have shown a better collection record, just as a footnote. The reasons for that are multiple. I think they have a smaller span of control. Very often they did have a follow-up in the collection procedure in place. Unhappily, in some instances, they were more conservative in the management of their money.

I say unhappily only if that would, in fact, deny any opportunity or be unduly restrictive. By and large the record of the State management systems had been better, as the record shows. This brings me then to the essential questions you asked, Mr. Chairman, when you invited us here and that is what are we doing. We begin with a clear and unequivocal statement that defaulting is an unacceptable condition of this program.

I do not expect that we can be unreasonable. For us to take any comfort in the fact that bills are unpaid would, in my judgment, be philosophically, administratively, and ethically unacceptable. We are determined, therefore, to confront that as an administrative problem and do everything within our power to see that this program is well administered and these obligations are repaid. We will not endorse sloppiness or carelessness in the administration of the program. We are moving to achieve that objective on three fronts.

First, we are seeking to reduce the number of default claims filed. I guess the technical jargon is to attack the problem at the front end. Now there are at least three different activities that are in place that are, in my judgment, going to, over time, start to diminish the number of defaults. First, the legislative changes that have already been passed by Congress, at the urging of this committee, have, in our judgment, gone a long way toward that. I will not recite those changes although they do appear in summation in the record statement I filed with you. I think especially, Mr. Chairman, the education amendments of 1976 were very responsible in trying to reduce what sometimes was even an artificial default because the lending agency had to act too arbitrarily, but in any event I believe we are legislatively moving toward the reduction of the number of defaults.

Second, we are also making changes in proposed regulations that will be published in December and will be effective next spring which include at least three very important elements that, in our judgment, will reduce the defaults. For example, the lender must contact the student prior to making a loan and during the process of servicing

loans. This is an obligation that the new regulations will call for. This is something that Leo just spoke to.

The regulation will also authorize the lending agency to introduce more flexible repayment options and permit for variance of collection if the lender is satisfied that the borrower will repay under a more liberal policy. In other words, the capacity under the regulations to negotiate with the lender and the borrower in our judgment will actually reduce the default claims because of the more realistic approach and also the responsibility that we impose on the lender to stay in close touch with the borrower.

There are some administrative changes, also, which we are introducing which we think will reduce the defaults. There is preclaims assistance to lenders before an obligation goes into default. When a loan is 60 days delinquent there must be a letter to remind the borrower of the debt, to warn the borrower he is about to default and this will revert to the Federal Government as an obligation there. This will become mandatory for all of those who wish to participate in this program.

We are not interested only in cutting back on the number of defaults but we are interested in a second strategy: To improve the collection rate of the loans which have already defaulted. Much attention has been given to that and previous testimony focused precisely on that, at least in one small part. As I said, the default rate is now in excess of 12 percent.

I remind you again that does leave a large percentage who have met their obligations, but we would like to push vigorously for collection. This is not easy because the backlog that has grown up over the years is enormous. But we are first introducing a new billing system which we have discussed at some length before. There was no reliable billing system in place. Students were not contacted regularly. Under the new arrangement monthly bills will be sent to each defaulter and we will have a computer management system in place which will allow us to track the progress of the payments on a regular basis and in that way make our own management control better.

Not only will there be a new billing system in place but we are also concerned about expanding and training our own collection staff. Right now we have, Mr. Chairman, about 100 collectors in the field. These are at the regional offices.

We have had some temporary positions assigned to us. Let me add parenthetically that, while that is helpful, it is far from sufficient and adequate. Our average part-time temporary has about a 3- to 4-month tenure and, given the nature of this problem and the need for follow-up, the temporary employee route seems at best a stopgap measure.

Happily we have additional positions that have been authorized; about 75 additional collectors will be assigned to the regional offices of OE. On November 14, we are having all of our collectors in Washington. It is a group that I am eager to meet. And the entire purpose of that will be an intensive training session in order to brief them on the new billing system that is going in place and to talk about the procedures of collection that we intend to enforce.

Mr. FORD. If I might interrupt you there, the fiscal 1977 appropriation bill carried in it funds for 94 new student loan collection positions. Have you filled those positions?

Mr. KORNFELD. There were 94 temporary, I think.

Mr. BOYER. I thought those were temporary positions that were authorized.

Mr. FORD. That was my next question—whether or not you regard them as temporary or permanent positions.

Mr. KORNFELD. There were 94 temporary positions which were filled. We still do have about 90-some temporary people in the field and, as Commissioner Boyer mentioned, we have over 100 full-time people, permanent.

Mr. BOYER. We can't give you further information on the status of those within the regional offices, but it is my understanding that the 100 will then be enriched by 75 additional permanent slots.

I should say, Mr. Chairman, our survey indicates that the collection success of our people does not match at all the record of the commercial collectors. I think, in part, that it reflects the need for more training. Maybe part of it is also what one might call a civility factor that sometimes commercial collectors might sacrifice.

In any event, we think there is need for training here to see to it that we not only hire people to help us with this but that they are working together as a team and under central leadership and backed up by the central computer and billing system that we need to get in place.

In that regard, I should say that, in our new reorganization in OE, we have actually put all of the regional student loan people directly under the Deputy Commissioner for Student Financial Assistance, instead of having them work with the regional commissioner. In my judgment this action will tighten the span of control and cause them to be more effective as they work out of Mr. Kornfeld's office.

The third piece of our three-point strategy to improve the management of this program is to reduce the program abuse by institutions, and the testimony just preceding mine mentioned this as an important factor. That is what does plague us—the extent to which certain types of institutions may, in fact, not be responsible partners in this venture. Here again discrimination in that category is no less easy than when you try to deal with student differences. But it is true that a high percentage of our defaults can be localized around a given cluster of institutions. And we have a great problem then to determine the extent to which we should, in effect, certify institutional eligibility for participation. We intend to deal with that problem and to carry out the mandates which, first of all, the legislation requires.

The 1976 amendment which indicates that we must suspend school lenders with an annual default rate of 15 percent over 2 consecutive years, in my judgment, is the responsibile signal that provides a benchmark on how to start dealing with those that are fly-by-night and are really using the loan arrangements for institutional self-benefit and not for student benefit; with the result that the great default rates tend to flow through from some types of instititional mismanagement and even illegalitites.

Also, as I recall, the 1976 amendments require that school lenders be lenders of last resort so they cannot, in fact, themselves benefit from this program in an economic way. It prohibits schools from commissioning salesmen to promote, to make bucks off the GSL. These things are even hard for me to utter, but that is the world.

But, in any event, your 1976 amendments, in my judgment, have spoken vigorously to the business of institutional credibility, which is the third piece of this. We are also moving on the institutional side, on regulations as well as administration.

Let me mention what is in the testimony briefly. Next spring the new regulations will set "due diligence" specifications for institutions' participation. That is, the banks are now required to have something called due diligence in collection.

And frankly, two or three of the biggest problems I met when I came here were banks that were not being allowed to make loans—there was a conflict over whether the bank had, in fact, exercised due diligence. We need to be more explicit when we deal with these banks and the lenders, to try to be more explicit about what is intended by "due diligence," and the regulations will speak to that.

Also we require that lenders file a default claim within 60 days of the default. Sometimes they, in fact, have been casual in reminding us that a student has been in default, so the whole problem tends to snowball. We are going to tighten that procedure.

On the administrative side, we are going to create in the bureau—in fact, we have, I guess—as soon as it is approved—a Division of Certification and Program Review to determine institutional eligibility, and this will be in the Bureau of Student Financial Assistance.

We are going to, in our own administrative office, not only create a Division of Certification and Program Review but establish a Compliance Division working closely with the Inspector General to track institutions that, in our judgment, are not adequately fulfilling their obligations. Several other administrative moves are mentioned in the testimony.

I would conclude, Mr. Chairman, by coming back to where I started. This is not a money matter essentially. It is a student matter. We are talking about people who need help. That is why Congress launched this program. That is why we are trying to administer it. Six million students have been involved.

The fact that States are now moving aggressively to put in place their own service programs indicates that the credibility of this program, in my view, is growing, not diminishing.

The Federal default rate has been growing, and we are trying to put steps in place—at least three major moves—that we think will deal with this problem—slow down default, speed up collection, and weed out bad institutions.

I wish I could tell you all of that will show up on the record tomorrow. It will not be easy; it will take time. But I think with a bit of luck and some hard work we will see to it that it is administered the way this body intended.

Mr. FORD. Thank you.

Did you want to ask some questions before you go?

Mr. CORNELL. I had a couple. When you were talking about defaults did you include bankruptcies?

Mr. KORNFELD. That is not included. Bankruptcies and death and disability are other categories, but default includes just nonrepayment.

Mr. CORNELL. I would gather from what you said there has been a great variation of procedures on the part of lenders in their efforts to collect these debts prior to referring them to the Government.

Mr. BOYER. That has been the problem. When they say, "We have engaged in due diligence; it is your problem; pay us the money," the question then becomes: What is meant by "due diligence"? And the unevenness has been a very difficult thing.

If the bank knows that when time has elapsed they will get paid and then it is ours—we have been concerned that "due diligence" not be left so fluffy that, when we get the obligation, we can't track back and say, "But you have not fulfilled your part of the obligation."

Mr. CORNELL. That will be the purpose of your regulations—to attempt to define what you mean by "due diligence"?

Mr. BOYER. Clarify what we mean by the kinds of criteria we believe mean due-diligence efforts so it will, in fact, cause them to monitor more carefully so they can provide the records to us, the number of contacts they have had by mail or face to face so they can track and say, "We have been diligent, but we still can't get the money."

Mr. KORNFELD. We will also provide another service to the banks in preclaims efforts. When the bank does try to collect and can't find the student, we will have a service where the lender—we will help him try to trace the student as part of a service we will provide for the banks.

Mr. CORNELL. Thank you, Mr. Chairman.

Mr. FORD. When we were working with this program in its early years, there was a fond hope that the patterns that evolved with other kinds of Federal guarantees would repeat themselves and that, in fact, by this time in history we would have reached a point where the guaranteed student loan program would have been so successful that banks would be willing to take over from us and get into the business themselves. That has not proved to be the case.

One of the examples we had in mind: In the fifties the Federal Housing Administration began guaranteeing home improvement loans for people to put the bar in the basement or add a garage or whatever they did to their homes without having that become a loan against the property. Because in many States that is a virtually impossible situation—to borrow additional money and become involved with the primary obligation against the property.

The experience of the banks over a period of years was that the repayment rate was so good—the default rate was so small, in other words—that they set up their own programs and said, "Why should we pay 1 percent to the Federal Government when we discover that we are losing only a quarter of a percent in repayment and these are good loans?"

And, in fact, the bankers jumped on this and began advertising. It was at the stage when banks started coming out of their shells and advertising that they were in the business of providing assistance to people to do these things.

They have always, I suppose, advertised that you could buy automobiles and appliances that way but then they got into that field. It has continued over the years to be a very successful field of consumer lending for banks, not as long term as holding mortgages but not as short term as automobile loans and others. It has been a very strong balancing factor in a bank's building its own portfolio of investments.

The student loan program has not developed to the point where it has become desirable for banks to get into very extensive student loan programs of their own, although some banks are doing it in some parts of the country.

We were also aware that, at the time this program was going into effect, there were other forms of guaranteed student loan programs in modest size where either a foundation or a charitable organization or some other group—and then utimately States began providing funds—would put up some money, sort of, as collateral against the loans which was thereafter extended as a form of a guarantee. The experience with the collection on those loans was very good. The bank actually did not want to dig into the collateral that was on deposit with them and they made the effort to collect the student loan instead.

We may have made it a little too easy for the lending institution to simply shift it over to us with no obligation to service the loan before they did so, and it appears now that there is not really an economic incentive for them to put forth very much effort to service the loan.

I suppose you have to consider, in tightening the system up, the concern that many of us have that if you tighten it up too much the bankers might just get out of the business altogether and then our program dies because it is too good.

Mr. BOYER. Might I say that is a matter of much concern, because the commercial institutions entering this voluntarily, if they feel it is, in some ways, too difficult to administer or we are crippling them in various ways, can simply withdraw. So the voluntary nature of it from that view makes the partnership problem acute.

You just said what is another piece of the equation: We have to continue to cause banks to feel that this is a service, and I hope it continues to be a motivation on their part, but they also have to look at management and dollars to be sure; so it is a juggling act to see that all of the partners are being well served.

Mr. FORD. We made the assumption that if banks are willing to give toasters and electric blankets and everything else just to come by and talk to them about an account, the idea of having a young college graduate coming in regularly to make payments and developing into a customer during the period of his life when he is a maximum consumer would have some appeal.

That does not seem to have become a widespread phenomenon. They are still giving the toasters away, I guess, but they are very reluctant on the student loans.

One of the problems that I think leads to a lot of media comments on the whole student loan phenomenon that is misleading and irritating to the public and, therefore, to the Congress, is the kind of large figures that are thrown around from time to time. Now, my recollection—and, Chris, you may recall this—going into what became the 1976 amendments back in 1975, people were throwing a figure of some $800 million around as the amount of money that was in default. Does that sound familiar?

Mr. CROSS. I don't recall.

Mr. FORD. Later we had somebody tell us it was not $800 million; it was $400 million currently in default, and there is no distinction made. When those figures get popped out to the general public, when they see a figure that there are *x*-hundred million dollars in

default, the assumption is that that money has been lost to the Government, lost to the program, and that it has been in some way written off.

To the extent that we are able to demonstrate that that is not, in fact, the case and that, while we can't expect 100-percent success in recovering it, we don't recognize that as the extent of the loss to the taxpayers ultimately, I think we will answer one of the primary concerns.

The feeling is that a student kind of like the fellow who was described earlier who says he was attracted to the student loan because it looked like a quick, easy way to get 3-percent money—I am willing to believe he is an exception. Most of the experience that has come to my attention is of the person who is sort of driven to the loan because the alternative is not finishing his education.

Ames was sort of whimsical about the whole idea right from the beginning and it never did take on to him the importance of this as being the essential element for him to have continued access to education.

That sort of goes over into the public view that young people have somehow today become less responsible than their predecessors. They get more divorces, they even live together without getting married and they do all sorts of things that irritate people my age and above which are changes from the good old days.

But we hear over and over this idea that students are no longer responsible, and this fellow may be in some way typical. Some way we have to get a handle on that and find out to what extent the phenomenon of this young man described to us by Mrs. Meyner is a part of the problem.

And it appears to me that the kind of steps that you put into motion already would have caught his attention quite a while ago and changed his attitude before he was ever interviewed by this newspaper, because it is very clear throughout, from what he is saying to the newspaper reporter, that he does not really regard it as a serious kind of an obligation. He does not seem to feel that his failure to meet this obligation is going to produce any kind of a long-term impact on him, and that leads to the next step that we will be dealing with later this afternoon: that the smart aleck figured out how to use the bankruptcy law improperly. We are in real danger, it seems to me, of losing necessary public support for what should be one of the most appealing programs to the American work ethic.

I would find it easier to understand—if, in fact, it were true—the irritation of my constituents over the fact that their children do not qualify for BEOG's and SEOG's and direct grants while other children in different conditions do than to understand the kind of animosity they have toward the student loan program. Student loans, in fact, presumably go to someone who at least has the ambition to undertake an obligation for the purpose of furthering his education with an understanding, to some degree, that he is not being given something because of any family characteristic or characteristics over which he had no control but because of his own initiative to try to use the resources to go to school.

Somehow it seems to me it should not be so difficult for us to put this program in shape so that people would recognize that someone who borrows money to go to school is every bit as much a part of

the American free enterprise system as someone who borrows money to buy land or equipment to go into business or something of that kind.

It is very clear that that is not the perception that the public and much of the Congress have of the student loan program because your predecessors unfortunately gave no evidence here of any deep concern about doing very much about it. We had an Office of Management and Budget whose answer was: Just cut the amount of money we put into the program and that will deal with the problem.

I am not at all sure that that feeling has left the Office of Management and Budget because I don't know that the people who promoted that idea have left the Office of Management and Budget. But we are being beseiged in this program from inside and outside and, Mr. Commissioner, I am completely convinced, as the chairman of this subcommittee, that you and Mr. Kornfeld are sincere in your efforts to remedy that condition and I want to assure you that we want to cooperate in every way.

But I have to leave you with the thought that, unless we succeed, we could very well be still here in town when this whole marvelous experiment of giving access to people who otherwise would not have access to education—and this is one of the really strong elements in providing a truly pluralistic society among those who are the most educated in our society—goes down the tube.

You are really, at this point, in the hotspot of being in a rescue operation, and you have to rescue it without showing that you are soft or overly sympathetic, which certainly is not going to please the constituency too much that is served by it.

We have been urged by people down at the State level to consider such things as cosigner requirements, which really would, for many of the people covered in this program, cut the program off to them. Presumably if a young person can get a cosigner for the note, he doesn't need this program. But that is the sort of suggestion that, we gather, comes from the desperation of people trying to administer the program who feel deep concern that the default rate tends to grow and nothing has happened heretofore to improve it.

Unless the initiatives that you are putting forth are successful rather quickly and begin to produce success stories to offset the kind of story we heard this morning, we are going to have real trouble keeping this program alive; and I believe that on both sides of the aisle in this subcommittee and in the full committee there is a very strong concern to carry out the original intent and purpose of this program and keep it alive.

Do you have any questions from the minority?

Mr. CROSS. One thing, Mr. Commissioner, in your statement on page 7 you talk about regulations allowing the flexibility of repayment schedules. That provision was in the law that was signed a year ago. What does the lender do now if that lender or the borrower wants to initiate a flexible repayment schedule?

Mr. KORNFELD. Right now the lender is required to have a fixed schedule.

Mr. CROSS. Even though the law has been changed. That is an important point. The fact is that the law has been changed and yet the law is not operative for any of these provisions that were in the 1976 amendments because no regulations have been issued. Is that correct?

Mr. KORNFELD. Correct, in large measure, yes.

Mr. CROSS. The point I was raising was: All of these changes made in the 1976 amendments nobody has been able to implement them yet because regulations have not been issued.

Mr. FORD. They indicated the regulations would be published in December.

Mr. KORNFELD. Proposed regulations.

Mr. BOYER. I have been advised from those behind me that bulletins have been sent to lenders indicating the nature of the changes in the law. But I have to tell you that we have been diligently trying to get out the regulations that would formalize this.

Mr. FORD. Not all of the changes that we had in the statute require regulations to become operative.

Mr. BOYER. That is true, and I think those have been formally implemented by advisories to the lenders.

Mr. CROSS. What happens in an instance where a lender would choose to institute a flexible repayment plan without the regulations having been issued and then files for a default claim?

Mr. KORNFELD. There would be no problem if he initiated that. There is no problem there. The problem you have, however, is that I think it is not practical to think that the lenders read the law. Part of the problem is it is incumbent upon us to inform them. You can't really expect people to be that sophisticated and be able to go through the laws and do it on their own. We have to do it through regulations, through some means communicate to them. Otherwise they really don't know about this kind of thing.

The regulations, you know, were attempted to be published some time ago. When the 1976 Education Amendments came through the regulations were not published, and we are now revising the regulations.

Mr. CROSS. Do you happen to recall in the schedule you were required to submit in the 1976 act what date that schedule stipulated the regulations would be published on GSL?

Mr. BOYER. I do not know that.

Mr. CROSS. I have a feeling they are 5 or 6 months overdue.

Mr. KORNFELD. That could well be.

Mr. FORD. I might mention that it is called to my attention that, when you were hitting the cutoff date that we had in the statute, you did indicate you were not going to be able to meet it. The statute did provide that, if you advised us for whatever reason you were not able to meet it, the time would be extended for a reasonable time thereafter to comply. We were trying to convey to your office a sense of urgency without putting you in a straitjacket so that you stayed up all night and wrote some fast regulations that we would be sorry for later.

Mr. KORNFELD. Not to sound like an excuse, but one of the problems in this particular set of regulations, more so than others, is that you have a very difficult line to mark here.

One is that you want to try to make sure that the lender, in fact, is following rules. On the other hand, this is one of the major criticisms we are getting from lenders over regulations we have had in the past on this program. So what you try to do is try to put in what is practical and still give us the necessary controls without burdening the lender who claims, as some do, they are actually losing money on these type

loans since they can provide commercial loans at a much higher interest rate.

So, for that reason, plus the fact that the law is complicated, you end up with a very complicated set of regulations, despite our many efforts to keep them as simple as possible.

Mr. FORD. Regarding the figure of 314 employees of HEW who show up as being in default on student loans, are we prepared to tell the Congress anything about what specifically is being done with them?

I should preface it by saying—and I should have brought this up with Mrs. Meyner—the suggestion made in the group that she was speaking for is that a Federal employee could be fired for not paying a student loan.

As a member of the Post Office and Civil Service Committee, I doubt that you can do that. That is not one of the things that the Civil Service Commission is likely to uphold you on any more than failure to pay child support or anything else. And I don't suppose that there is greater dignity in the repayment of a student loan than paying overdue child support, but that has been determined in the past and even the military is unable to go quite that far.

But what can you do to reach the very special concern that arises out of the fact that someone working in the Department of HEW or any place else in the Government for that matter is in default to the Federal Government?

Are steps being taken to collect those?

Mr. BOYER. Yes; and before commenting on that, Mr. Chairman, I would like to say something about your observations regarding student attitude. I don't know whether this generation is more sinful than the preceding one. I do think——

Mr. FORD. Those were not my feelings.

Mr. BOYER. I was simply stimulated by the rhetorical inquiries that you made. Now that I have become older I have a feeling they are, but that is only a personal judgment. There is, in my judgment, clear speculation that can be made that, in the absence of responsible follow-up and collection, the rumor mill being what it is, especially among student groups and the like, it is not surprising to me that an opinion has emerged that this is a loan that you don't have to worry much about.

I think there is a relationship between the nature of the administration and the subsequent attitude relating to it. So we do have a problem, I think, in maybe a slightly more philosophical vein. We have developed, quite correctly, in this country the view that higher education is close to a right and, therefore, contrasted to possibly some other consumer items, if it is a right, the feeling might be that whatever it took for the system to deliver that right to me is not quite the same obligation as something viewed as a luxury or personal preference.

I don't know how much validity to attach to that, but I think speculatively one might pose it. But the problem we face is how to make vivid the fact that we are serious about this program. How can we remind the public that this is an obligation that we are going to try to follow through on? The attempt to look at whether we have, even within HEW, people who have not filled that obligation was

really in the context of where do you begin to try to catch up with the notion that it is not an obligation that matters very much.

We are not interested only in looking at any defaults within HEW. We were doing it in order to collect the money and the Congresswoman's comment that that is only the first step is absolutely right. I have no quarrel with that.

We are taking, Mr. Chairman, all the steps which we believe are legally possible. We are going to contact each employee who, according to the initial records, indicates default to make sure that that default status is still as it showed. We are going to follow that up with the payment demands. It is very clear to me that turning over defaulted education loans to the U.S. attorney would be a responsible obligation if, after due diligence in calling for repayment, we find no interest or initiative to deliver.

So the steps are available to us and we intend to follow up on them. The letters are going out. I guess the first letter is either tomorrow or the first of the week. Let me say on our initial inquiry, Mr. Chairman, it would not be possible for an employee to be dismissed on the basis of having not kept payment of a student loan. I think your examples are absolutely correct. In fact, the issue that is really at stake here if you formulate it legally is: Can a Federal employee with a delinquent bill be dismissed? It is not the origin of that bill that makes it an issue. That applies to any bill that I think might be owed.

The fact that the bill is a loan that one borrowed from a bank and then reverted to the Federal Government does not, in the legal context, change the question of how you deal with personnel.

So what is at stake here is: Is it possible for any Federal employee in any agency to be dismissed if it is discovered he is not paying a bill? And I don't know how far that would go. I don't want to get personal in the matter, but the answer seems at first cut at least to be no, but we will follow toward the collections on this as diligently as the laws permit.

Mr. FORD. The GAO report of August 11, 1977, entitled "Collection Efforts Not Keeping Pace With Growing Number of Defaulted Students Loans," devotes some time to the very things you have been talking about here, but one of the points they made is need for increased emphasis on compromise of debts.

Some of us have raised the question before that, if someone who realized they were very far behind walked in to one of our congressional offices and said, "How can I sit down with somebody and work that out so that I can get back right with the world and meet my obligations," none of us would know where to send that person. GAO pointed out that prior to March 1976, the Office of Education had no formal instructions governing compromise and that from the inception of the guaranteed student loan program until that time OE had apparently compromised very few claims.

No one in the business of collecting debts would argue with the idea that that is the most effective way to get someone who is in default back on the track and recover the money. They go on to say the Office of Education guidelines dated March 4, 1976, indicate that regions have authority to compromise debts up to $10,000 but GAO says, "In our opinion, the guidelines discourage regional collection personnel from initiating compromise negotiations."

Then they point out they found, in one region, the regional employees of OE were of the opinion that they could not talk compromise unless the person owing the debt initiated the subject. That somehow they would sit and confront each other in a room and presumably unless the person owing the money had the wit to suggest that as one way to solve the problem, they were not authorized to enter into the discussion.

The GAO report said:

> We believe the Office of Education should revise its guidelines to encourage collection personnel to invite compromise offers in cases in which this manner of settlement may be in the Government's interest, especially in view of the huge and growing backlog of cases and, as discussed on pages 16, and 17, the danger of suit being barred by the statute of limitations.

What are you doing to deal with that problem? You mentioned that you intend to educate the regional personnel by bringing them here. I think you said the 14th of November you are bringing people in to educate them. Will you touch on this aspect of it as well?

Mr. KORNFELD. We were not planning on this, Mr. Chairman, but we do feel a need and we do agree with the GAO's comments here. We do have to get out much better instructions, much better guidelines to our field people on how to compromise and how to negotiate overdue bills and we do have that as one of our action items. It has not yet been done, however.

Mr. BOYER. I think, since we are planning this seminar in mid-November, it should indeed be one of the areas to be pursued. Since, apparently, guidelines have been submitted to the regional offices it should be discussed, I think, with all of those present. It provides a splendid opportunity to deal with that very issue.

Mr. FORD. If you would look at page 28 of this report and see the Department's comments, you will find that whoever commented for the Department defended the past practice rather than acknowledging any problem. It might suggest to you whether or not you would like to ask your regional people while you have them in here what, in fact, they think their obligation and authority is at this point. If you discover the same thing that the GAO thinks they discovered, perhaps you could deal with it at that time. But the tenor of the Department's comments indicates that the reaction to the GAO criticism was to defend past practices and say we have written clear guidelines, we have given them plenty of notice, and it is really not a problem because they do, in fact, know it. That won't do it.

Mr. BOYER. You are absolutely right, and in reading the response, which I did not write—but I am curious as to finding the one who did—it said the reason why we expressed caution is that we feel our collectors are not experienced enough to make the kind of professional judgments, and that it might, in fact, be a kind of abused or runaway alternative.

If I read the reason given why we don't want to be more flexible, it seems to me the answer to that lies not in rejecting the proposal, but in solving the defined problem—namely, educating the collectors more fully as to how one uses that as an additional tool. That is precisely why we have put these people directly under the bureau chief instead of reporting to a regional commissioner, which made it very obliquely tied to the primary purpose, and why we intend to bring

them in and engage in the kinds of inservice training they need under more professional guidance to know how to carry out their job. This would, in my judgment, be one of the difficulties. I think you are absolutely right.

Mr. Ford. I think it is a very conservative approach to the capability of the personnel of the Office of Education. When one looks at the private sector it does not take weeks or months to train somebody to work for a collection agency, a loan company, or an insurance claims adjuster, to know how to sit down and work within the limitations that are set by the principle on how far you can go and work out some sort of a deal. That is the way business is conducted in the marketplace all the time.

Here you have a stated amount; you have some certainty. You are not even dealing with an open account that may have an argument about what is the amount due or the terms of repayment or so on.

It would seem you ought to be able to trust these people to deal with compromise in this kind of an area with relatively little training. And if they are not trainable in that sense I suppose you will have to transfer them to something else. I just don't think we could accept the idea that you should not use the most logical tool available because you have fear that your personnel aren't going to be able to do the job.

Mr. Kornfeld. We do have to train our collectors in not only this particular function but we have to train them to be better collectors, more productive. We feel strongly it is just a copout to say they are low-salaried, low-grade people and therefore that is the way it is going to be. We may never—and I suspect we will never—get them so that they will be running at the same productive rate that a commercial collector does.

One: They have more experience, they have a different incentive than our people have. They work on commissions as you know primarily, but that still does not mean we have to accept the situation in which we are now finding ourselves.

Mr. Ford. We have a vote which I have to leave for, and I will have to recess the hearing. Before closing, Mr. Commissioner, I would like to take this occasion to thank you for the letter that I received yesterday from you, a very positive response to an inquiry that is several months old, regarding the administrative allowances and the reserve fund advances for State plans and State programs. I know that there is going to be a considerable amount of relief expressed in the education community across the country, some rejoicing, I might say, because of the way in which you promptly and definitively resolved this problem as soon as it got to your attention. And I think it is another example to go with the many we have already seen of the willingness of the Office of Education under your stewardship to respond to problems when they are brought to your attention in a way that resolves them and carries out the intent of the law.

I know that the other members of the committee with whom I am going to share the letter will join me in thanking you for the prompt and, in this case, pleasant result you produced.

Mr. Boyer. I regret the delay, but I can say that response indicates absolutely our commitment to strengthen and advance the State-based structure that will, I think, provide long-term stability to this program.

Mr. Ford. Thank you very much, sir.

[The prepared statement of Representative Walker follows:]

STATEMENT OF REP. ROBERT S. WALKER (PA.)
BEFORE THE SUBCOMMITTEE ON POSTSECONDARY EDUCATION

October 27, 1977

Mr. Chairman and Members of the Committee:

I am here today because I am very much concerned about the problem of defaults on student loans. The extent of borrower default for 1977 was projected to reach 17% for the federally insured portion of the Guaranteed Student Loan Program.

It is apparent that many factors contribute to defaults. While any legislation to curb this increasing trend must focus on those who willfully and deliberately default on their student loans, it would also include those who because of genuine personal circumstances cannot repay the loans.

Realizing that the controversies involved in this issue give rise to a large number of "simple solutions" to the program's problems, and that all parties involved look at it from the point of view of their own interests, I would like to offer my own suggestion for the Committee's consideration.

My proposal would prohibit individuals who default on student loans from obtaining any other federal loan, such as from the Small Business Administration, the Federal Home Administration, the Office of Minority Business Enterprise, the Farmers Home Administration or any of the other major government agencies listed on the attached sheet, until the student loan is paid off.

If a student clearly understands, when the student loan is made, that he is entering into a debt, a pure business transaction from which the lender expects interest income and repayment, rather

than a subsidy like grant or work assistance he is far less likely to go into default. Similarly, if he knows he will not be able to get any other federal loans until this one is paid, it would act as a deterrent to default.

My proposal would also assist individuals who because of genuine personal circumstances cannot repay their loans. Allowing them additional federal loans only permits them to get themselves deeper into debt, a burden from which it will be increasingly difficult to extricate themselves. In any case, private loans would always be available to these individuals, and no taxpayer guarantee would be involved.

One measure of the potential for future obligations for the Guaranteed Student Loan Program is the fact that of over $8 billion in total loans made by the Guaranteed Student Loan Program lenders, more than $6 billion is still outstanding. The Congress must take some action to curb the defaults, and I hope my suggestion is of assistance to this Committee in its efforts to do so.

APPENDIX

MAJOR DEPARTMENT OF THE U.S. GOVERNMENT THAT HAVE LOAN PROGRAMS:

Department of Agriculture
Department of Commerce
Department of Health, Education and Labor
Department of Transportation
Department of Housing and Urban Development
Small Business Administration
Veterans Administration
Department of Interior

Mr. FORD. The committee will stand in recess.

The record will be open for comments from anyone who was present for a reasonable time.

[Whereupon, at 11:50 a.m., the committee adjourned.]

[Additional material submitted for inclusion in the record follows:]

JOHN W. WYDLER
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Congress of the United States
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Washington, D.C. 20515

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OF ALL SUBCOMMITTEES OF
SCIENCE AND TECHNOLOGY
GOVERNMENT OPERATIONS
SUBCOMMITTEE:
INTERGOVERNMENTAL RELATIONS AND
HUMAN RESOURCES
(RANKING MINORITY MEMBER)
AD HOC COMMITTEE
ON ENERGY
TECHNOLOGY
ASSESSMENT BOARD
MEMBER

October 28, 1977

Honorable William D. Ford, Chairman
Subcommittee on Postsecondary Education
House of Representatives
Washington, D. C. 20515

Dear Bill:

I am sorry I was not able to personally get to the hearings on the student loan program.

Our hearings on the Government Operations Committee have convinced me that this program needs tightening up, and needs it quickly, and in a dramatic fashion. Many students apparently consider the loans a form of scholarship to which they are entitled. I think a demonstration that we intend to collect the money given is in order and perfectly well justified.

With every good wish,

Sincerely yours,

John W. Wydler
Member of Congress

JWW:llp

STATEMENT OF THE HONORABLE JOHN W. WYDLER

BEFORE THE SUBCOMMITTEE ON POST-SECONDARY EDUCATION
OF THE COMMITTEE ON EDUCATION AND LABOR

OCTOBER 27, 1977

ROOM 2261

I WOULD LIKE TO CONGRATULATE THIS COMMITTEE ON HOLDING THESE VERY IMPORTANT HEARINGS ON THE STUDENT LOAN PROGRAM. AS I UNDERSTAND IT, IT IS THE PURPOSE OF THESE HEARINGS TO INQUIRE WHY SO MANY STUDENT LOANS ARE NOT BEING REPAID TO THE FEDERAL GOVERNMENT. I HAVE A VERY STRONG PERSONAL INTEREST IN THIS SUBJECT MATTER. THE INTER-GOVERNMENTAL RELATIONS AND HUMAN RESOURCES SUBCOMMITTEE OF THE COMMITTEE ON GOVERNMENT OPERATIONS HAS HELD EXTENSIVE HEARINGS ON THE PROBLEM OF FRAUD AND ABUSE IN THIS AND OTHER PROGRAMS. AS A RESULT OF THESE HEARINGS, WE DRAFTED, AND THE CONGRESS ENACTED, A BILL TO ESTABLISH AN OFFICE OF INSPECTOR GENERAL IN THE DEPARTMENT OF HEALTH, EDUCATION AND WELFARE, WHOSE SOLE PURPOSE IS TO COMBAT FRAUD AND ABUSE IN HEW PROGRAMS. THAT OFFICE APPEARS TO BE OFF TO A VERY GOOD START UNDER THE ABLE DIRECTION OF TOM MORRIS, AND SECRETARY CALIFANO HAS SHOWN GREAT INTEREST IN ELIMINATING FRAUD AND ABUSE IN ALL HEW PROGRAMS.

THE MAGNITUDE OF THE STUDENT LOAN DEFAULT PROBLEM IS VERY SERIOUS. STUDENTS ARE DEFAULTING ON FEDERALLY-GUARANTEED LOANS AT A CONTINUALLY HIGH RATE. ACCORDING TO THE GENERAL ACCOUNTING OFFICE, 17 PERCENT OF THE $4.5 BILLION IN STUDENT LOANS ISSUED THROUGH SEPTEMBER 1976 ARE IN DEFAULT. IRONICALLY, AMONG THOSE WHO HAD NOT PAID WERE A PSYCHIATRIST MAKING $31,000 A YEAR WHO OWED $8,700, AND A PROFESSIONAL BASKETBALL PLAYER MAKING $85,000 A YEAR WHO OWED $3,500. I BELIEVE THAT MORE VIGOROUS, CONTINUOUS COLLECTION ATTEMPTS ARE MOST DEFINITELY NEEDED.

In looking at this very serious problem there are two things that the Department of HEW needs to do: (1) they must focus on the past and require that all persons able to do so repay their student loans; and (2) they must focus on the future and establish the necessary computer systems and internal management procedures necessary to prevent people from skipping-out on their loans.

It is important that the agency make a vigorous attempt to collect these owed monies before the statute of limitation expires. This is important to maintain the integrity of the program and to let the American people know that this program is not a sham or give-away. Operation MATCH that Secretary Califano announced a few months back is a good start in this direct'on. I understand that HEW may turn these defaulted loans over to a private collection agency. If this will help reduce the backlog then I am certainly in favor of it.

While focussing on the collection of owed monies HEW must not slacken on efforts to improve the student loan administrative system. We need proof and guarantees that this serious problem of default on student loans will not occur in the future. It is my expectation that the Subcommittee on Intergovernmental Relations and Human Resources intends to look into this important matter in the early part of next year.

There is another area of importance of which this subcommittee should be aware. The Office of Education has for several years used the IRS Taxpayer Address Request Program to assist institutions of postsecondary education in locating student loan borrowers who failed to repay their loans. This service provided institutions with current data on delinquent lost borrowers, thereby making it possible for the institution to resume efforts to collect defaulted student loan accounts.

It is my understanding that because of a provision of the Tax Reform Act of 1976 this information will no longer be available. It is my opinion that the restrictions imposed by the Tax Reform Act should be modified to handle this particular problem. I urge this Committee to look into this matter.

The student loan program is one of the most important domestic programs we have. Our country will not be strong without well-educated citizens. This program enables many to get the education that they need. Every time, however, that a student defaults on a loan, he deprives other students of the resources they need for their education. Fair and prompt enforcement of the program is the only way to ensure that money will be available for future students.

In closing, I would like again to congratulate this Committee in holding these important hearings. I am confident that whatever changes for the better do occur will be the result of hearings such as these.

STATEMENT OF U. S. REP. JACK BRINKLEY BEFORE THE HOUSE EDUCATION AND LABOR COMMITTEE'S SUBCOMMITTEE ON POST-SECONDARY EDUCATION - OCTOBER 27, 1977

MR. CHAIRMAN, I COMPLIMENT YOUR SUBCOMMITTEE FOR FOCUSING ON THE NATIONAL STUDENT LOAN DEBT CRISIS THROUGH YOUR OVERSIGHT HEARINGS.

THE INCREASING NUMBER OF DEFAULTED FEDERALLY-INSURED STUDENT LOANS IS A SITUATION WHICH RELATES TO OUR NATIONAL CHARACTER. APPROXIMATELY ONE OUT OF SIX LOAN RECIPIENTS IS INVOLVED IN A SHODDY FINANCIAL PRACTICE UNDER THE FEDERALLY-INSURED STUDENT LOAN PROGRAM, WHERE DEFAULTS COLLECTIVELY HAVE AMOUNTED TO $500,000,000 IN PRINCIPAL AND INTEREST.

MR. CHAIRMAN, DEBTS SHOULD NOT BE DISCHARGED UNDER BANKRUPTCY PROCEEDINGS EXCEPT IN CASES OF PROLONGED ILLNESS, PROLONGED UNEMPLOYMENT, OR A SHOWING OF UNIQUE HARDSHIP. THE PRESUMPTION SHOULD BE ONE OF NON-DISCHARGEABILITY, ALTHOUGH IT SHOULD BE A REBUTTABLE PRESUMPTION. THIS WOULD STILL BE BETTER TREATMENT THAN THAT ACCORDED UNDER AN IRS LIEN, WHICH CAN GO ON FOREVER.

ALLOWING STUDENTS TO CASUALLY DISMISS THEIR FINANCIAL OBLIGATIONS BY DECLARING BANKRUPTCY AFTER GRADUATION IS A PRACTICE WHICH, IF ALLOWED TO CONTINUE, WILL SERIOUSLY ERODE THE FINANCIAL STABILITY OF THE ENTIRE NATIONAL STUDENT LOAN PROGRAM. AS A RESULT, MILLIONS OF STUDENTS WOULD BE DENIED THE OPPORTUNITY TO SEEK HIGHER EDUCATION. WE CANNOT STAND BY AND SEE THE MAJORITY OF STUDENTS, WHO ARE WILLING TO REPAY THEIR LOANS, SUFFER AT THE HANDS OF THE IRRESPONSIBLE MINORITY, WHO HAVE CHOSEN TO SIDE-STEP THEIR FINANCIAL RESPONSIBLITY.

LEO KORNFELD, DEPUTY COMMISSIONER, BUREAU OF STUDENT FINANCIAL ASSISTANCE IN THE DEPARTMENT OF HEALTH, EDUCATION AND WELFARE, RECENTLY DESCRIBED THE PHILOSOPHY AT MANY COLLEGES REGARDING THE STUDENT LOAN PROGRAM AS FOLLOWS: "THERE IS AN ATTITUDE ON MANY CAMPUSES THAT THIS IS GOVERNMENT MONEY, IT'S A SOFT TOUCH AND YOU CAN GET OUT OF PAYING IT BACK." WE NOW HAVE THE OPPORTUNITY TO END THIS HARMFUL ATTITUDE AND BEGIN TO SHORE UP THE FISCAL INTEGRITY OF THE NATIONAL STUDENT LOAN DEBT.

STATEMENT OF THE HONORABLE
ROMANO L. MAZZOLI
BEFORE THE
SUBCOMMITTEE ON POSTSECONDARY EDUCATION

RE: EFFORTS OF OFFICE OF EDUCATION TO RECOUP DEFAULTED FUNDS AND TO REDUCE THE INCIDENCE OF LOAN DEFAULT.

November 4, 1977

Mr. Chairman and distinguished Subcommittee Members:

I welcome the opportunity to urge this distinguished Subcommittee to recommend legislative action to answer the severe problem of defaults on student loans.

I guess it is fair to say that we are here today, in part at least, because of the recent headlines which blared-out the news that 316 H.E.W. employees -- some high-income employees -- have defaulted on their student loans.

American families find it increasingly difficult to afford the soaring educational costs. The more educational costs soar, the more deserving students are priced out of a college education. This is a very dismal -- and foreboding -- trend.

Because the national interest is served when deserving and qualified students can obtain a college education, I have always supported the two major federal student-aid programs: the Guaranteed Student Loan Program (GSLP) and the National Direct Student Loan Program (NDSL).

In this same connection, I have always supported legislation to fund these student-aid programs adequately. Adequate funding, prudently managed and carefully disbursed, have been the goals I've worked for.

In these days of public distrust in their governmental institutions and in their elected officials, it is especially sad to read of federal employees who have defaulted on their student-aid loans.

What a terrible example. Is it any wonder that the people are frustrated and have it in for all of us?

Loan defaults are costly in dollars lost to the treasury and in credibility lost to the government.

It is, for all these reasons, time to take remedial action.

With respect to "Operation Cross-Check" which identified the 316 HEW employees -- several in the high salary range -- who had defaulted on their federally-insured loan obligations, I do not feel a reprimand is sufficient punishment.

Restitution must be made by each of these employees immediately -- unless sufficient reason is established for a waiver of immediate payment -- under pain of dismissal.

To do otherwise would assure the American public that their fears about costly and poorly-administered federal programs -- about double-standards for the insiders -- are correct and will be voted.

This is an unconscionable situation. Our failure to deal with it sternly will be equally unconscionable.

I thank this distinguished Subcommittee for coming to grips with the loan-default problem. It is a vexing one. I wish you success in dealing with it.